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On June 29, 2001

TOWNSEND and TOWNSEND and CREW LLP

By: Jim R. Clarke
Jim R. Clarke

PATENT
Atty. Docket No.: 023070094800
Client Reference No. UC 99-232-1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHERN and RONALD

Application No.: 09/294,539

Filed: April 19, 1999

For: PROTEINS THAT REGULATE
SYSTEMIC ACQUIRED RESISTANCE
IN PLANTS

Examiner: Kubelik, A

Art Unit: 1638

AMENDMENT


Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed May 29, 2001, Applicants elect with traverse to prosecute the claims of Group II drawn to nucleic acids encoding SEQ ID NO: 4. According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. See, the MPEP at 803.01. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. To show undue burden resulting from searching difficulties, the Examiner must show that the restricted groups have a separate classification, acquired a separate status in the art, or that searching would require different fields of search (MPEP at § 808.02). Applicants respectfully submit that all the groups identified in the Office Action can readily be searched without undue burden.

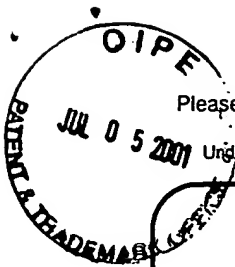
In light of the above, Applicants respectfully request that the restriction be withdrawn. If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 576-0200.

Respectfully submitted,



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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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| | | | |
|--|----------------------|------------------------|--------------|
| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | Application Number | 09/294,539 | |
| | Filing Date | April 19, 1999 | |
| | First Named Inventor | Chern, Maw Shenq | |
| | Group Art Unit | 1638 | |
| | Examiner Name | Kubelik, A | |
| Total Number of Pages in This Submission | 1 | Attorney Docket Number | 023070094800 |

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| Remarks | | The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430. |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | |
|--------------------------|---|----------------|
| Firm and Individual name | Townsend and Townsend and Crew LLP Kevin Bastian | Reg No. 34,774 |
| Signature | | |
| Date | June 29, 2001 | |

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| June 29, 2001 | | |
| Typed or printed name | Jill R. Clarke | |
| Signature | | Date June 29, 2001 |

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